

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE**

Steven Roy, Charles Wolff,
Eric Chaplin, Joel Smith,
John Gosselin, Bruce Usher,
William Johnson, Prayer Feather
Farrow

v.

Civil No. 09-cv-75-SM

NH Department of Corrections,
Commissioner; NH State Prison,
Warden; Northern NH Correctional
Facility, Warden; Robert MacLeod,
Karen Anderson

O R D E R

Defendants seek my recusal under 28 U.S.C. § 455(a). I reject the suggestion that sending a file for review by one of the few attorneys in the state willing to consider taking a prisoner case somehow places my neutrality or objectivity into question. The prisoner filed a motion to appoint counsel. The prisoner's claims had merit and counsel was free to do his own analysis.

Judge Arenas did the preliminary review in this case, so I was not familiar with the complaint in this case until the motion. Having now read the complaint, I find that it has some

issues identical to factual issues in Mr. Roy's "dental case." In that case, I made factual findings concerning defendants' unconstitutional lack of adequate dental care. My findings were in part based upon defendants' own witnesses. The question isn't whether I could be objective because I certainly can be objective. However, I do think that having made those findings, my objectivity may reasonably be questioned. I recuse myself from all further proceedings in this case.

SO ORDERED.


James R. Muirhead
United States Magistrate Judge

Date: April 10, 2009

cc: David P. Slawksy, Esq.
Lawrence A. Vogelmann, Esq.
Danielle Leah, Esq.
Nancy J. Smith, Esq.
Anne M. Edwards, Esq.